IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Bail Appl..No. 4160 of 2007()

CRIME NO.119/07 OF PERUMPADAPPU POLICE STATION

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PETITIONER/ACCUSED IN CRIME NO.119/07

KUNJIMOHAMMED, AGED 43 YEARS,
S/O.MOHAMMED, KARUMATHIL HOUSE,
NARANNIPUZHA, PIDAVANNOOR P.O.,
PONNANI TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.T.K.SAIDALIKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
PERUMPADAPPU POLICE STATION.

2. THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4160 OF 2007

Dated this the 10th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Sec.376 of the IPC. He is the sole accused. The son of the prosecutrix is employed abroad. The victim on 11/3/07 allegedly went to the business premises of the petitioner, who runs a finance establishment, to repay the amount borrowed by her son. The victim was allegedly informed that the amount had to be remitted in another branch of the establishment. The petitioner allegedly took the victim in a car to such other branch of the establishment. They spent a night in the house of the driver of the car. In that house, the victim was allegedly raped. She became pregnant on such sexual intercourse and on 13/4/07 the victim informed the petitioner that she had become

pregnant. They went to a hospital together. Pregnancy was confirmed. It was later aborted. It was found that she had some pain and for treatment of that she was again admitted to the hospital. She spent about 10 days in the hospital. She underwent a surgery. Thereafter, the petitioner allegedly took her to Ervadi in Tamil Nadu. On the promise that he will return after repairing his car, the petitioner left the victim there; but disappeared thereafter. Later, with great difficulty seeking help from the people at Ervadi the victim allegedly found her way to her native place. Thereafter, the present allegation of rape has been raised.

2. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the sequence of events narrated by the petitioner does not at all inspire confidence and this is a fit case where directions under Sec.438 of the Cr.P.C. can and ought to be issued in favour of the petitioner. The petitioner is willing to co-operate with the Investigators and shall abide by any reasonable conditions as would be imposed by this Court.

3. The learned Public Prosecutor does not oppose the application for anticipatory bail. In the peculiar facts and

circumstances of this case, I reckon that as a reasonable stand taken by the learned Public Prosecutor. I am satisfied that subject to appropriate conditions to be imposed in the interests of a fair, efficient and expeditious investigation, anticipatory bail can be granted to the petitioner.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 17/7/07. He shall be released on regular bail on his executing a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 18/7/07 and 19/7/07. During this period the petitioner can be interrogated in custody and recoveries, if any, can be effected. Potency test can also be conducted during this period. Thereafter, the petitioner shall make himself available for interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Thereafter, he shall so make himself available for interrogation before the Investigating Officer as and when

directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on/0 17/7/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 17/7/07.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge